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TO AMEMBASSY OTTAWA

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E.O. 11652: N/A

TAGS: ETRD, GATT, CANADA

SUBJECT: CANADIAN SURTAXES ON FRESH CHERRIES AND BEEF

1. CANADIAN ECON COUNSELOR GHERSON DELIVERED GOC AIDE-
MEMOIRE ON CHERRY CASE TO DEPUTY ASSISTANT SECRETARY RENNER
ON DEC. 4.

2. IN PRESENTING NOTE, GHERSON REPEATED CANADIAN CONCERNS
ABOUT HOW SETTLEMENT OF THIS CASE MIGHT SET PRECEDENT FOR
SAFEGUARD SYSTEM TO BE NEGOTIATED IN MTN'S AND WISH OF
CANADIAN AUTHORITIES TO EXCHANGE VIEWS WITH U.S. ON ARTICLE
XIX WITH AN EYE TOWARD FORTHCOMING WORK IN GENEVA.
TEXT OF CANADIAN NOTE FOLLOWS: BEGIN TEXT. THE CANADIAN
AUTHORITIES APPRECIATE THE FURTHER ELABORATION OF THE
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UNITED STATES' POSITION CONTAINED IN THE STATE DEPART-

MENT'S NOTE OF NOVEMBER 12 ON THE SUBJECT OF THE CANADIAN SURTAX ON FRESH SWEET CHERRIES DURING THE PERIOD JUNE 30 TO AUGUST 3, 1973.

THE CANADIAN AUTHORITIES DO NOT DISAGREE THAT COMPENSATION SHOULD BE PAID FOR GATT ARTICLE XIX ACTIONS IN CERTAIN CIRCUMSTANCES. THERE ARE, HOWEVER, A NUMBER OF GENERAL POINTS IN THE UNITED STATES' NOTE WHICH REQUIRE CLARIFICATION BEFORE THE CANADIAN AUTHORITIES WOULD BE IN A POSITION

TO ASK MINISTERS TO CONSIDER WHETHER COMPENSATION IS WARRANTED IN THIS CASE. THE CANADIAN AUTHORITIES ARE PARTICULARLY INTERESTED IN DISCUSSING THE STATEMENTS IN THE STATE DEPARTMENT'S NOTE WHICH IMPLY THAT COMPENSATION IS NOT MANDATORY. THEY WOULD REFER, FOR EXAMPLE, TO PARAGRAPH FIVE OF THE NOTE WHICH STATES IN PART THAT "THE PARTY ADVERSELY AFFECTED MAY MAKE ITS AGREEMENT CONDITIONAL" AND TO THE LANGUAGE IN PARAGRAPH SIX, IN PARTICULAR THE WORDS "WHICH MAY AND USUALLY DOES INVOLVE COMPENSATION" PARAGRAPH SEVEN OF THE STATE DEPARTMENT'S NOTE ALSO REFERS TO GATT PRACTICE REGARDING COMPENSATION. IT IS THE UNDERSTANDING OF THE CANADIAN AUTHORITIES THAT GATT PRECEDENTS SHOW THAT COMPENSATION HAS NOT BEEN AGREED IN ALL CASES OF ACTION TAKEN UNDER ARTICLE XIX.

THE CANADIAN AUTHORITIES BELIEVE THAT IT WOULD BE HELPFUL TO DISCUSS THESE ISSUES WITH UNITED STATES REPRESENTATIVES AND TO CONSIDER WITH THEM THE IMPLICATIONS FOR THE EVOLUTION OF A SAFEGUARDS SYSTEM. THEY WOULD PROPOSE, THEREFORE, THAT THE NEXT ROUND OF SUBSTANTIVE CONSULTATIONS TAKE PLACE ON OR ABOUT DECEMBER 18, 1973 IN WASHINGTON, D.C. END TEXT.

3. RENNER TOLD GHERSON THAT U.S. CONSIDERED QUESTION OF COMPENSATION OWED FOR CHERRY SURCHARGE AND POSSIBLE DEVELOPMENT OF NEW SAFEGUARD SYSTEM DURING MTN'S TO BE TWO COMPLETELY SEPARATE ISSUES, AND THAT PRESENT ARTICLE XIX SYSTEM WOULD CONTINUE TO OPERATE UNTIL NEW SYSTEM AGREED UPON, WHICH MIGHT BE LONG TIME OFF. HE NOTED U.S. ENTITLED TO DISCUSSIONS ABOUT COMPENSATION BY 1970 EXCHANGE OF LIMITED OFFICIAL USE

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LETTERS AND BY ARTICLE XIX; THAT U.S. HAD FORMALLY REQUESTED SUCH CONSULTATIONS WITH CANADIANS 3 TIMES IN CHERRY CASE; THAT U.S. HAD PRESENTED GOC WITH REQUEST LIST; AND THAT UP TO NOW U.S. HAD RECEIVED NO INDICATION THAT CANADIANS WERE WILLING TO DISCUSS COMPENSATION. RENNER STATED THAT TIME WAS RAPIDLY APPROACHING WHEN U.S. WOULD HAVE TO DRAW CONCLUSIONS FROM THE CANADIAN REFUSAL TO DISCUSS COMPENSATION. SHORTLY THE U.S. WILL HAVE NO

CHOICE BUT TO CONSIDER WHAT U.S. ACTION SHOULD BE TAKEN. GHERSON SAID HE HOPED THAT THE U.S. WOULD WAIT UNTIL AFTER THE DECEMBER 18 CONSULTATIONS. RENNER SAID THAT THESE CONSULTATIONS WERE ON THE MTN AND THAT THERE WAS NO INDICATION IN THE CANADIAN AIDE-MEMOIRE THAT THE CANADIANS WOULD BE PREPARED AT THAT TIME TO TALK ABOUT COMPENSATION FOR SURCHARGE ON CHERRIES. BUT HE DOUBTED THAT THE U.S. WOULD HAVE DRAWN DEFINITIVE CONCLUSIONS PRIOR TO DECEMBER 18.

4. IN PARTING GHERSON MENTIONED GOC DECISION TO EXTEND SURCHARGE ON BEEF, NOTING CONFIDENTIALLY HE THOUGHT IT MIGHT BE REMOVED IN ANOTHER TWO WEEKS OR SO. RENNER ASKED WHETHER THE CANADIANS HAD NOTIFIED GATT UNDER ARTICLE XIX. GHERSON SAID NO.

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